

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-2591

**United States Court of Appeals
for the Second Circuit**

74-2591

ALBERT KAUFMANN,
Plaintiff-Appellant,
against

MARY WELLS LAWRENCE, CHARLES MOSS, RICHARD T.
O'REILLY, JOHN V. BURNS, FRANK G. COLNAR, FRED-
ERICK L. JACOBS, BARRY E. LOUGHRANE, MARTIN
STERN, STANLEY G. DRAGOTI, CATHARINE GIBSON,
E. DONALD CHALLIS and WELLS, RICH, GREENE, INC.,
Defendants-Appellees,

and

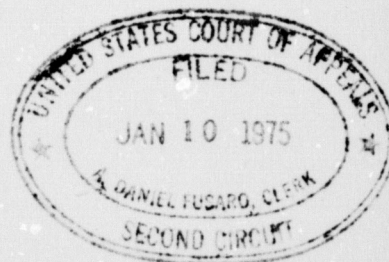
WARREN J. KRATKY, ARNOLD M. GRANT,
TROY V. POST and EMILIO PUCCI,
Defendants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

**JOINT APPENDIX—PART II
(In Camera)**

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In Camera Extract from Transcript of Minutes of Hearing

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Colnar-direct

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* * * * *

MR. NEMSER: Your Honor, we have some confidential
exhibits here, I believe one. If we may come up, your
Honor.

ONLY COPY AVAILABLE

1 Inbr 11

Colnar-direct

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2 (At the side bar -- in camera.)

3 (Court's Exhibits 3 and 4 were marked for
4 identification.)5 MR. SISK: These are projections prepared by
6 Mr. Colnar for next year on two different bases. They are
7 obviously highly confidential, competitive materials and
8 it is for that reason that we ask that they be given in camera
9 treatment. It also possibly could affect the exchange
10 offer which we are obviously --11 THE COURT: We will treat them -- we will seal
12 them. Are you going to ask any questions about that?13 MR. WESSER: ^{Yes,}
14 Your Honor, Which one did you prepare
15 first?16 THE WITNESS: First of all, 190 is our operating
17 plan for the year 1970.18 THE COURT: I think you better give us the
19 exhibit number so I will know which one you are referring
20 to.21 THE WITNESS: Exhibit 3 is Wells, Rich, Greene's
22 operating plan for the year 1975 based on the latest billing
23 estimates received from our clients. Then we did this on
24 two ways. We got the expected billing that they are
25 going to do and then we also asked for the low side because
of the way the economy is, et cetera. and we then developed

1 12hr 12

Colnar-direct

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2 ~~set~~ **another**

set of numbers to see what that would do for us.

3 Primarily to run out in a separate deal the cash flow to
4 make sure that we could service the debt interest in this
5 obligation that we are incurring.

6 THE COURT: What is the difference again between
7 the difference -- I understand what Exhibit 3 was.

8 **THE WITNESS:**

~~the difference~~ Is the reduction in the billings
9 of about \$10 million.

10 THE COURT: I see. You made a statement forecast
11 based on your estimated billings but then in order to be
12 extra careful you, in reviewing the economy, you did
13 Exhibit 4 which is a more depressed situation than you
14 really anticipated?

15 THE WITNESS: That is right. In other words,
16 looking at the **worst**.

17 THE COURT: Anything else?

18 Q You don't have the year end October 31, 1974
19 figures, do you?

20 A No, we do not. Those are still being audited by
21 Haskins & Sells. Those results are usually available prior
22 to Christmas. They have been in the past years since the
23 beginning of our business.

24 MR. SICK: May I ask a question about these?

25 THE COURT: Sure.

1 12br 13

Colnar-direct

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2 BY MR. SISK:

3 Q Mr. Colnar, did you have these documents,
4 Court Exhibits 2 and 4 at the time of the board meeting on
5 September 4, 1974?

6 A No, we did not. That forecast at ^{the} board
7 meeting was a higher number than we are looking at here.
8 Since then we have lost a client, Bonanza, which was expected
9 billing of about five million three. And other cut-
10 backs appeared so we are now 190. That is our position
11 today.

12 Q So things have actually gotten worse since
13 September 4th?

14 A Absolutely.

15 BY MR. NEMSER:

16 Q You are at 190?

17 A That is what we are estimating at the present
18 time.

19 Q That is up over your October 31, 1973 gross
20 billings, isn't it?

21 A That is correct. But I think it will be less in
22 1974.

23 Q That we don't know.

24 A No, we don't.

25 I think I feel that -- if it isn't less, it

1 lzbr 13a

Colnar-direct

2 will be very close.

3 THE COURT: Anything further up here?

4 MR.NEMSER: Not on these, your Honor.

5 THE COURT: This testimony will be sealed.

6 His testimony is also to be sealed.

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10-51-74

		1975
1	GROSS BILLINGS	190700
2	OPERATING REVENUE	
3	Commissions and Fees	28605
4	OPERATING EXPENSES	
5	Salaries & Associated Expenses	14100
6	General & Administrative	8562
7	Depreciation & Amortization	1625
8	Deferred Expenses	(563)
9	Total Operating Expenses	23724
0	NET OPERATING INCOME	11881
1	Non-Operating Inc. or Exp. - Net	150
2	Net Income before Taxes	5031
3	Income Taxes	2716
4	NET INCOME	2315
5		
6	EARNINGS PER SHARE	1.42
7	Number Shares Outstanding	1631853
8		
9	SALARIES AS % OF REVENUE	49.3
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WELLS, NICH, GREENE, INC.

GROSS BILLINGS FORECAST COMPARISON

CONFIDENTIAL

1974 VS. 1975

10-30-74-

(000)

			FORECAST 1975			
1	TRANS WORLD AIRLINES		27700			
2	PROCTER AND GAMBLE		22833			
3	MILES LABORATORIES		18974			
4	PHILIP MORRIS		18000			
5	RAISTON PURINE		19214			
6	SUN OIL CO.		10775			
7	MIDAS		7000			
8	BIC PEN		5775			
9	ROYAL CROWN		-0-			
10	BONANZA		400			
11	GENERAL MILLS		1844			
12	SMITH, KLINE, FRENCH		2500			
13	WESTINGHOUSE		2400			
14	PAINE WEBBER		1900			
15	WOLVERINE WORLDWIDE		1500			
16	NEW YORK STATE LOTTERY		1850			
17	OTHER		-0-			
18						
19	TOTAL WRG		142735			
20						
21	GAC		46965			
22						
23	WRG/D		1000			
24						
25	GRAND TOTAL BILLINGS		190700			
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COURT'S EXHIBIT 4-7 WELLS, RICH, GREENE, INC.

INCOME STATEMENT

FORECAST

(000)

1975

GROSS BILLINGS

180527

OPERATING REVENUE

Commissions and Fees

27079

OPERATING EXPENSES

Selling & Associated Expenses

11100

General & Administrative

8562

Depreciation & Amortization

1625

Deferred Expenses

(563)

Total Operating Expenses

23724

NET OPERATING INCOME

3355

Non-Operating Inc. or Exp.-Net

150

Net Income before Taxes

3505

Income Taxes

1893

NET INCOME

1612

EARNINGS PER SHARE

99

Number Shares Outstanding

1631853

SALARIES AS % OF REVENUE

52.1

GROSS BILLINGS FORECAST COMPARISON

CONFIDENTIAL

1974 vs. 1975

10-32-74

(000)

		FORECAST 1975				
1	TRANS WORLD AIRLINES	26700				
2	PROCTER AND GAMBLE	22452				
3	MILES LABORATORIES	18734				
4	PHILIP MORRIS	17000				
5	RASTON-MURKIN	18013				
6	SUN OIL CO.	9900				
7	MIDAS	6900				
8	BIC PEN	5775				
9	ROYAL CROWN	-0-				
10	BOHANNAN	400				
11	GENERAL MILLS	1403				
12	SMITH, KLINE, FRENCH	2300				
13	WESTINGHOUSE	2200				
14	PAINE WEBBER	1700				
15	WOLVERINE WORLDWIDE	1500				
16	NEW YORK STATE LOTTERY	1850				
17	OTHER	-0-				
18						
19	TOTAL WRG	36827				
20						
21	GAC	42950				
22						
23	WRG/D	750				
24						
25	GRAND TOTAL BILLINGS	180527				
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SERVICE OF THREE (3) COPIES OF THE WITHIN
JOINT APPENDIX - PART II(In Camera) IS
HEREBY ADMITTED.

DATED: JANUARY 6, 1975

Hughes Hubbard & Reed by PPH
Attorneys for Defendants-Appellees